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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,235	09/09/2004	Fumiya Nemoto	OGOSH22USA	1791
270. 7590 07/02/2009 HOWSON & HOWSON LLP 501 OFFICE CENTER DRIVE SUITE 210 FORT WASHINGTON, PA 19034				
EXAMINER				
BAND, MICHAEL A				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/507,235

Applicant(s)

NEMOTO ET AL.

Examiner

MICHAEL BAND

Art Unit

1795

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 11-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 11-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- _____ Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- _____ Paper No(s)/Mail Date _____
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 11-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwamoto et al (JP No. 11011478) in view of Nakamura et al (JP No. 11350122).

With respect to claims 1, 11-12, 17, and 30, Iwamoto et al discloses a double box container with figs. 3-4 depicting a rigid inner buffer member (i.e. retention frame) [58] defining a guide groove (i.e. void) [60] inside a rigid plastic inner box [50] having a lower plate [70] and upper plate [56] (abstract; p. 3, para 0017). Fig. 1 depicts a rigid outer box [8] which surrounds the inner box [50] (abstract; p. 4, para 0032), where said outer box [8] is formed from wooden plywood panels (i.e. outer frame) [16], [18], a cover [20], and palette (i.e. bottom plate) [6] (p. 3, para 0027). Fig. 1 also depicts rigid stationary supports to form hollows (i.e. handle) [4] which can insert the claw part of a fork lift truck having wheels that is man-powered (p. 3, para 0024), where the wheels would be mounted and adjacent to only a rear edge of the palette [6] via the tangs of said fork lift truck and not a front edge of said palette [6]. Despite Iwamoto et al not specifying the heights of the supports and wheels, it has been held where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device

and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device. Therefore it would have been obvious to one of ordinary skill in the art to have the height of the supports be smaller than, greater than, or equal to the height of the wheels since the relative heights all allow for the container to be inclined during transport. Fig. 1 further depicts the outer box [8] supported on an underlying surface via the supports of the palette [6]. When the fork lift is attached to the outer box [8] via hollow [4] of the palette [6], said outer box is supported by wheels of the fork lift and at a slight incline since a side of the outer box [8] nearest the fork lift is supported and a side farthest from the fork lift is unsupported. However Iwamoto et al is limited in that while it is disclosed that the double box container protects rectangular parts such as thin sheets from dust and contaminates, it does not specify the parts being a sputter target.

Nakamura et al teaches a sputter target composed of two or more metal sheets or foil to form a rectangular or circular sputter target (abstract; fig. 1). It is known to avoid having dust and other contaminates present on the metal foil to ensure purity in the sputter target and sputter deposited film.

It would have been obvious to one of ordinary skill to interchange the thin sheets of Iwamoto et al with the metal sheet or foil of Nakamura et al since both thin sheets require protection during transport to avoid contracting impurities.

With respect to claims 13, 18, and 22, modified Iwamoto et al further discloses in fig. 2 a metal fitting [44] on the wooden panels [16], [18] of the outer box [8].

With respect to claims 14, 19, 23, and 26, modified Iwamoto et al further discloses in fig. 3 a through-type hold [68] on inner box [50].

With respect to claims 15, 20, 24, and 27-28, modified Iwamoto et al further discloses in fig. 3 an impact-absorbing object [72] between the inner box [50] and outer box [8].

With respect to claims 16, 21, 25, and 29, modified Iwamoto et al further discloses in fig. 1 the cover [20] being removably affixed to the outer box [8].

Response to Arguments

112 Rejections

3. Applicant has amended the claims to align within the scope of the Specification; the 112 rejections are withdrawn.

103 Rejections

Applicant's arguments with respect to claims 1 and 11-30 have been considered but are moot in view of the ground(s) of rejection due to the new claim limitations requiring wheels for man-powered transport are provided mounted to the bottom plate which have been addressed in the rejections above.

4. Applicant's arguments filed 5/18/2009 have been fully considered but they are not persuasive.

5. On p. 9-11, the Applicant argues that figs. 3-4 of Iwamoto et al depict the pallet (i.e. bottom plate) without wheels but has slots that enable a 'lift means' such as a tangs

of a motorized fork lift truck, thus wheels are not directly mounted or attached to the bottom plate. The Applicant also argues that Iwamoto et al does not disclose the container to be inclined. The Applicant also argues that the relative size of the fork lift truck and the slots is not disclosed.

The Examiner respectfully disagrees. Regarding the claim language of the wheels being mounted directly to the bottom plate, the limitation requiring 'directly' has not been claimed. Regarding Iwamoto et al not disclosing the container to be inclined, the Examiner submits the following from the rejection of claim 1: "When the fork lift is attached to the outer box [8] via hollow [4] of the palette [6], said outer box is supported by wheels of the fork lift and at a slight incline since a side of the outer box [8] nearest the fork lift is supported and a side farthest from the fork lift is unsupported". In addition, the container being inclined relates to intended use as the container is only at an incline during specific times of operation of the apparatus as a whole, thus the container is not at a permanent incline and the fork lift truck as discussed above is fully capable of maintaining the container at an incline. Regarding the relative sizes of the wheels and the slots, it has been held where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device. In addition, it has been held that claims directed to a package of 'appreciable size and weight' requiring handling by a lift truck were unpatentable over the prior art packages which could be

lifted by hand because limitations relating to the size of the package were not sufficient to patentably distinguish over the prior art. See MPEP 2144.04, Section IV, Part A.

6. On p. 12, the Applicant argues that Iwamoto et al does not teach an inner sputter target retention frame defining a void the size of the sputtering target.

The Examiner respectfully disagrees. In response to the Applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Therefore Iwamoto et al teaches in figs. 3-4 a double box container comprising an inner buffer member (i.e. retention frame) [58] defining a guide groove (i.e. void) [60] for rectangular sheets, with Nakamura et al teaching rectangular sheets being sputter targets. Therefore the combined references teach rectangular sputter target sheets capable of being inserted into a guide groove of an inner buffer member.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Band whose telephone number is (571) 272-9815. The examiner can normally be reached on Mon-Fri, 9am-5pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexa Neckel can be reached on (571) 272-1446. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/M. B./

Examiner, Art Unit 1795

/Alexa D. Neckel/

Supervisory Patent Examiner, Art Unit 1795